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C O N F I D E N T I A L VIENNA 000676

SIPDIS

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TAGS: [PARM](#) [MOPS](#) [PREL](#) [NATO](#) [UN](#) [AU](#)
SUBJECT: AUSTRIA ON CLUSTER MUNITIONS: POLITICAL DRIVE FOR
TOTAL BAN; BUT GOVERNMENT SEES NEED FOR COMPROMISE

REF: (A) STATE 47101 (B) VIENNA 568

Classified By: Econ/Pol Counselor Dean Yap. Reason: 1.4(b) and (d)

11. (C) Summary. Despite serious concerns about interoperability in the armed services, Austria's Defense and Foreign Ministers are pushing for a robust, though not absolute, ban on cluster munitions. To achieve this, the MFA is prepared to discuss compromise definitions of CW and clarifications of Article 1(c) in Dublin. The MFA is also concerned that divisions between advocates of a total ban and those seeking broad exemptions could seriously undercut the Dublin negotiations. End Summary.

Military Misgivings

12. (C) Col. Richard Monsberger, Director for Arms Control in the Ministry of Defense (protect), bluntly told Econ/Pol Counselor May 7 that the military believes Austria's existing national law and the draft Oslo Treaty on cluster munitions pose interoperability problems. Monsberger pointed out that Austria was obliged to caveat its deployment to Chad as part of the EU force by stating that Austrian personnel cannot be involved with cluster munitions. The same caveat applies to all other Austrian deployments as well. While there has been no practical impact thus far, Monsberger

said the policy runs counter to Austria's stated goal of being able to participate in more robust peacekeeping missions. Asked whether the Oslo Treaty would further tighten the restrictions, Monsberger thought not, though he acknowledged having focused more on the impact of Austrian national law than on the putative Treaty. Throughout the conversation, Monsberger emphasized that the military's strongly held concerns had been over-ruled by Defense Minister Darabos, who had committed himself to a ban before coming into office in early 2007.

¶3. (C) Looking at possible interoperability scenarios, Monsberger saw the impact of existing Austrian law as most serious on joint staff operations, because Austrian staff would be obliged to recuse themselves from any operations which could likely involve cluster munitions. Monsberger did not believe Austrian law would cause a problem for training on "dual-use" equipment or with units that deploy cluster munitions. As to combined operations, Monsberger thought the problem would be more political than legal -- given Austria's stance, were Austrian forces to fight alongside units using cluster munitions, even if they were themselves not implicated in the weapons' use, this could cause political problems in Vienna.

¶4. (C) Not having focused on the details of the Treaty, Monsberger had no thoughts on whether these concerns could be addressed by amendments to Articles 1(b) and (c), or other changes to the Treaty text. He did expect both the definition of cluster weapons and the interoperability question to be major issues in the Dublin negotiations. Monsberger also asked whether a definition that banned only munitions below a certain reliability and/or accuracy threshold would be seen by the U.S. as a positive step.

¶5. (C) In an e-mail following a meeting with responsible MFA officials, Monsberger reported that the MFA had asserted that it had heard "that there should be no problem in NATO and ESDP operations." Econ/Pol Counselor assured Monsberger that NATO allies across the board recognized that there was an interoperability issue, though there were differing views on how to address it. (Note: It would be helpful to receive releasable information on how NATO military authorities assess the interoperability issue.)

Pressure from All Parties -----

¶6. (C) In a May 16 meeting, MFA Disarmament Director Marschik reported that the Government was under strong pressure from all sides in parliament to press for a complete ban of CW, along the lines of Austria's national ban. He noted that two MPs, one each from the conservatives and Social Democrats (which together form the government) will go to Dublin to observe the process. They may also be joined by a Green party (now in opposition) MP. Marschik claimed that the MFA was trying to persuade parliamentarians that, given the wide range of views among the negotiating parties, a ban that would be less than total would still be worthwhile.

MFA Accepts Need for Compromise; But Is Worried About Others -----

¶7. (C) Marschik described a group of 30-40 (primarily African) states that he believes is absolutely committed to a total ban on all CW.

Another 15 or so want to see substantial exceptions built into the treaty. Neither group, he said, is as worried as it should be about the positions of the others, and he fears that the sides may therefore reject any compromise. Marschik was more focused on intransigence among the African states, which he said have bought into the argument that exceptions would give richer states a technological advantage, while still burdening them with the responsibility for dealing with the aftermath of CW use.

Willingness to Compromise on Definition and Clarify

Article 1(c)

18. (C) Marschik was open to changing the text in ways that would set a technological standard for acceptable CW. Though Austria's national legislation effectively sets a 100% reliability standard, Marschik referred to a combination of a high reliability standard plus technological fixes (sensor fusing, self-destruct mechanisms) that would allow for the retention of the most modern CW. On interoperability. Marschik thought a definition of "assist" (Art. 1(c)) could resolve the problem. However, he also insisted that the U.S. was exaggerating the interoperability problem and claimed that representatives of other NATO allies, including the UK and Italy, had told him the problems were minor and related mostly either to aspects of training or to U.S. stationed forces. Cooperation in UN, and perhaps also EU and NATO missions, Marschik argued, would be unaffected because of those organizations' legal status. Marschik also opposed changing the text of existing Articles 1(b) and (c) -- largely so that the treaty is seen as taking a strong and clear line -- and adding clarifying definitions and other provisions later in the text.

Kilner